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6 UNITED STATES DISTRICT COURT  
7 DISTRICT OF NEVADA

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9 CLIFTON D. DAWSON,

Case No. 2:20-cv-02265-KJD-VCF

10 Petitioner,

ORDER

11 v.

12 STATE OF NEVADA, et al.,

13 Respondents.

14 Clifton D. Dawson, a pretrial detainee, has submitted a *pro se* habeas corpus  
15 petition pursuant to 28 U.S.C. § 2241 (ECF No. 1-1). His application to proceed in  
16 forma pauperis is granted. The court has reviewed the petition, and it will be dismissed  
17 without prejudice because Dawson has not presented his claims to the highest state  
18 court.

19 A federal court will not grant a state prisoner's petition for habeas relief until the  
20 prisoner has exhausted his available state remedies for all claims raised. *Rose v.*  
21 *Lundy*, 455 U.S. 509 (1982); 28 U.S.C. § 2254(b). A petitioner must give the state  
22 courts a fair opportunity to act on each of his claims before he presents those claims in  
23 a federal habeas petition. *O'Sullivan v. Boerckel*, 526 U.S. 838, 844 (1999); see also  
24 *Duncan v. Henry*, 513 U.S. 364, 365 (1995). A claim remains unexhausted until the  
25 petitioner has given the highest available state court the opportunity to consider the  
26 claim through direct appeal or state collateral review proceedings. See *Casey v. Moore*,  
27 386 F.3d 896, 916 (9th Cir. 2004); *Garrison v. McCarthey*, 653 F.2d 374, 376 (9th Cir.  
28 1981).

1       Here, petitioner, who is represented by the public defender in his state criminal  
2 proceedings, states on the face of his petition that he has not raised his claim that  
3 prosecutors are withholding exculpatory evidence in violation of *Brady v. Maryland*, 373  
4 U.S. 83 (1963), to the state courts. The petition, therefore, is unexhausted.

5       Accordingly, this federal petition is dismissed without prejudice to petitioner filing  
6 a new federal habeas petition, in a new case with a new case number and a new,  
7 completed application to proceed *in forma pauperis* with the required financial  
8 information or the \$5.00 filing fee.

9       **IT IS THEREFORE ORDERED** that petitioner's application to proceed in forma  
10 pauperis (ECF No. 1) is **GRANTED**.

11       **IT IS FURTHER ORDERED** that the Clerk detach, file, and **ELECTRONICALLY**  
12 **SERVE** the petition (ECF No. 1-1) on the respondents, for informational purposes only.

13       **IT IS FURTHER ORDERED** that the Clerk add Aaron D. Ford, Nevada Attorney  
14 General, as counsel for respondents and provide respondents an electronic copy of all  
15 items previously filed in this case by regenerating the Notice of Electronic Filing to the  
16 office of the AG only.

17       **IT IS FURTHER ORDERED** that this action is **DISMISSED** without prejudice as  
18 set forth in this order.

19       **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**.

20       **IT IS FURTHER ORDERED** that the Clerk shall enter judgment accordingly and  
21 close this case.

23       DATED: 28 January 2021.



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25       KENT J. DAWSON  
26       UNITED STATES DISTRICT JUDGE  
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